

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

CLARENCE W. BROOKS,	)	
	)	
Plaintiff,	)	
v.	)	NO. CIV-14-0919-HE
	)	
GARFIELD COUNTY JAIL, <i>et. al.</i> ,	)	
	)	
Respondents.	)	

**ORDER**

Plaintiff Clarence W. Brooks appearing *pro se* and *in forma pauperis*, brings this 42 U.S.C. § 1983 civil suit alleging “harassment” by the named defendants during his confinement at Garfield County Jail. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Shon T. Erwin. Upon screening the complaint pursuant to 28 U.S.C. § 1915A, Judge Erwin recommended that it be dismissed for failure to state a claim. To the extent that the Garfield County Jail was intended to be a defendant in this action,<sup>1</sup> Judge Erwin recommended that all claims against it be dismissed because county jails lack capacity to be sued in Oklahoma.

As to the remaining defendants, plaintiff first claims that he was placed in lockdown without cause. Construing this as a due process claim, Judge Erwin concluded that plaintiff had not alleged sufficient facts to show that the lockdown rose to the level of a constitutional violation. Even if it had, the only action of defendants mentioned in the complaint are their allegedly improper responses to his requests to staff and grievances. Because such actions

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<sup>1</sup> Plaintiff includes Garfield County Jail in the caption of his complaint, but does not actually name it as a defendant in the body.

are not a sufficient basis to hold an official liable for a constitutional violation under § 1983, Judge Erwin recommended dismissal of this claim. Plaintiff also contends that defendants retaliated against him for filing complaints with this court. Concluding that plaintiff failed to allege any facts supporting this claim, Judge Erwin recommended that it too be dismissed.

By failing to object to the Report and Recommendation, plaintiff has waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts Magistrate Shon T. Erwin's Report and Recommendation, a copy of which is attached to this order, and **DISMISSES** the complaint.

**IT IS SO ORDERED.**

Dated this 25th day of November, 2014.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE